REMARKS

In paragraph 2 of the Office Action, the Examiner rejected Claims 1-5 under the provisions 35 U.S.C. §103(a) as being unpatentable over Uchida et al. (U.S. Pat. No. 4,752,422) in view of Tsai (U.S. Pat. No. 6,135,427); Kawamura et al.(JP 63134332); Dix et al.(U.S.Pat. No. 5,447,663) and Tsuaki (U.S. Pat. No. 4,563,313)

Reconsideration is respectfully requested.

Claims 1 and 9 point out an invention that is directed to a device for atomizing cleaning and/or disinfecting liquids without the use of pumps, compressors, high temperatures or aerosol gases. New claim 10 points out a method of atomizing cleaning and/or disinfecting liquids using the device of claim 1. The device is portable and has a handle to support the portable container that is divided into at least a first and second compartment. Within the first compartment there is a body having an inlet channel for the cleaning and/or disinfecting solution to enter. The liquid is vaporized within the body and released to the second compartment whereby air from the electro-fan in the first compartment enters the second compartment by way of a perforated wall and forces the vaporized liquid out of the device through a flexible hose to the desired location. The invention provides for a means for grasping and inserting a bottle containing the cleaning and/or disinfecting liquid jar. The invention comprises an electro circuit for converting electric oscillation of piezoelectric elements into mechanical oscillation at ultrasonic frequency for the immediate atomization of the cleaning and/or disinfecting liquid. The claimed device further comprises an electronic floating device capable of indicating the level of cleaning and/or disinfecting liquid inside the invention. Amended claim 1 points out that the means for directing the cleaning and/or disinfecting liquid away from the device is a flexible tube (23) as disclosed at page 4, line 12 and as broadly claimed in canceled claim 9. New claim 10 points out the method of atomizing cleaning and/or disinfecting liquids using the device of claim 1.

To support a determination that a claimed invention is unpatentable under 35 U.S.C.§103(a) it is necessary that the prior art teach or suggest the invention. The Examiner is asked to consider recent Federal Circuit precedent which has stated that references may not be combined without a suggestion or teaching that is provided in the references. It is improper to use the presently claimed invention as a template to construct a mosaic of the cited prior art and conclude that such a reconstruction is a proper basis on which to deem the claimed invention to be obvious. *In re Gorman*, 933 F. 2d 982, 987, 18 USPQ2d, 1885, 1888 (Fed. Cir. 1991) See also, *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985) Further, the courts have stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." *In re Fine,* 837 F.2d 1071, 1075, 5 USPQ2d at 1600 (Fed. Cir. 1988).The *In re McLoughlin, 170 USPQ 209 (CCPA 1971)* , decision cited by the Examiner does not represent the law of obviousness as laid down by the Court of Appeals for the Federal Circuit.

The primary reference, Uchida et al. states that: "The present invention ... is to provide an ultrasonic humidifier ...," see Col 1, lines 26-31, Tsai also teaches "The present invention relates to a humidifier, and particularly to one which is used for adding moisture to the atmosphere ...," see Col 1, lines 10-14, and Kawamura teaches "a humidifying device," see JP 63134332, Abstract. Uchida et al., Tsai and Kawamura et al. all disclose humidifiers for the problem of low humidity in an area, not the delivery of cleaning and/or disinfecting liquid. The present invention utilizes a piezoelectric element which is not disclosed by the primary reference. There is no suggestion to modify the device of the primary reference in Kawamura et al. as urged by the Examiner .

Uchida et al., Tsai and Kawamura et al. all teach away from the application of atomized liquid, i.e. the presently claimed directed application of atomized liquids through a flexible hose to a particular area. Uchida et al. teaches the delivery of "water spray is emitted, by driving the blower, into a room," see US Patent No. 4,752,422, Abstract, and Tsai discloses the delivery of "moisture to the atmosphere in the room," see Tsai at Col. 1, lines 10-13. Further, Kawamura teaches humidification of "a reservoir"

for keeping fruit fresh. A suggestion or motivation to concentrate or direct the application of the vaporized water to a particular area teaches away from and directly contradicts the intended function of the cited prior art. Adding water or fragrance to the atmosphere of a room, or water to a reservoir for fruit would not provide one of ordinary skill in the art with a reasonable expectation of success in dispensing cleaning and/or disinfecting liquids that may include particulate materials to a specific location. Claim 9, as amended, explicitly points out that the flexible tube directs the atomized liquid away from the device.

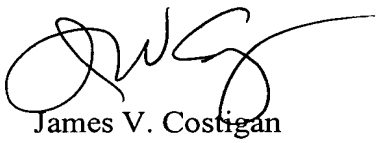
The Dix et al. humidifier does not have any delivery tube to direct the water vapor. In fact the function of a humidifier is to place water vapor over a broad area and not to concentrate the effect of the water in a particular location as that is not the function of a humidifier. The Tsuaki patent describes a humidifier which also lacks any type of an outlet that directs the atomized water away from the device.

For these reasons it is therefore respectfully requested that the above §103(a) rejection of Claims 1 and 9 be withdrawn.

Claims 1, 9 and 10 are allowable over the prior art and favorable consideration is requested.

An early and favorable action is earnestly solicited.

Respectfully submitted,



James V. Costigan
Registration No.: 25,669

MAILING ADDRESS
Hedman & Costigan, P.C.
1185 Avenue of the Americas
New York, NY 10036
(212) 302-8989